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Chief Clerk of the House

FILED FEB 09 2007

By: Robert R. Prentice

H.B. No. 1292

A BILL TO BE ENTITLED

AN ACT

relating to the maximum permitted withdrawals and critical period
management of groundwater in the area regulated by the Edwards
Aquifer Authority and to the operations and oversight of the
Edwards Aquifer Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.11(f), Chapter 626, Acts of the 73rd
Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, ~~[contract with a
person who uses water from the aquifer for the authority or that
person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain
recharge [water supply] facilities or contract with a person who
uses water from the aquifer for the authority or that person to own,
finance, design, construct, operate, or maintain recharge
facilities. ~~[Management fees or special fees may not be used for
purchasing or operating these facilities.]~~ For the purpose of this
subsection, "recharge [water supply] facility" means ~~[includes]~~ a
dam, reservoir, ~~[treatment facility, transmission facility,]~~ or
other method of recharge project and associated facilities,
structures, or works.

SECTION 2. Sections 1.14(a), (c), (e), (f), and (h),
Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and

1 all authorizations and rights to make a withdrawal under this Act
2 shall be limited in accordance with this section to:

- 3 (1) protect the water quality of the aquifer;
- 4 (2) protect the water quality of the surface streams
5 to which the aquifer provides springflow;
- 6 (3) achieve water conservation;
- 7 (4) maximize the beneficial use of water available for
8 withdrawal from the aquifer;
- 9 (5) recognize the hydro-geologic connection and
10 interaction between surface water and groundwater;
- 11 (6) protect aquatic and wildlife habitat;
- 12 (7) ~~[(6)]~~ protect species that are designated as
13 threatened or endangered under applicable federal or state law; and
- 14 (8) ~~[(7)]~~ provide for instream uses, bays, and
15 estuaries.

16 (c) Except as provided by Subsections ~~[(d)]~~ (f) ~~[(7)]~~ and (h)
17 of this section ~~[and Section 1.26 of this article]~~, for the period
18 beginning January 1, 2008, the amount of permitted withdrawals from
19 the aquifer may not exceed the sum of all regular permits issued or
20 for which an application was filed and issuance was pending action
21 by the authority as of January 1, 2005 ~~[400,000 acre-feet of water~~
22 ~~for each calendar year]~~.

23 (e) The authority may not allow withdrawals from the aquifer
24 through wells drilled after June 1, 1993~~[, except additional water~~
25 ~~as provided by Subsection (d) and then on an interruptible basis]~~.

26 (f) If the level of the aquifer is equal to or greater than
27 665 ~~[650]~~ feet above mean sea level as measured at Well J-17, the

1 authority may authorize withdrawal from the San Antonio pool, on an
2 uninterrupted basis, of permitted amounts. If the level of the
3 aquifer is equal to or greater than 845 feet at Well J-27, the
4 authority may authorize withdrawal from the Uvalde pool, on an
5 uninterrupted basis, of permitted amounts. In accordance with
6 Section 1.26 of this article, the [The] authority shall limit the
7 additional withdrawals to ensure that springflows are not affected
8 during critical drought conditions.

9 (h) To accomplish the purposes of this article, [~~by June 1,~~
10 ~~1994,~~] the authority, through a program, shall implement and
11 enforce water management practices, procedures, and methods to
12 ensure that, not later than December 31, 2012, the continuous
13 minimum springflows of the Comal Springs and the San Marcos Springs
14 are maintained to protect endangered and threatened species to the
15 extent required by federal law and to achieve other purposes
16 provided by Subsection (a) of this section and Section 1.26 of this
17 article. The authority from time to time as appropriate may revise
18 the practices, procedures, and methods. To meet this requirement,
19 the authority shall require:

20 (1) phased reductions in the amount of water that may
21 be used or withdrawn by existing users or categories of other users,
22 including reductions in accordance with the authority's critical
23 period management plan established under Section 1.26 of this
24 article; or

25 (2) implementation of alternative management
26 practices, procedures, and methods.

27 SECTION 3. Section 1.15(c), Chapter 626, Acts of the 73rd

1 Legislature, Regular Session, 1993, is amended to read as follows:

2 (c) The authority may issue regular permits, term permits,
3 and emergency permits. Except as provided by Sections 1.14(f) and
4 1.26 of this article, regular permits may not be issued on an
5 interruptible basis, and the total withdrawals authorized by all
6 regular permits issued by the authority may not exceed the
7 limitations provided by Section 1.14 of this article.

8 SECTION 4. Section 1.19(b), Chapter 626, Acts of the 73rd
9 Legislature, Regular Session, 1993, is amended to read as follows:

10 (b) Withdrawal of water under a term permit must be
11 consistent with the authority's critical period management plan
12 established under Section 1.26 of this article. A holder of a term
13 permit may not withdraw water from the San Antonio pool of the
14 aquifer unless the level of the aquifer is higher than 675 [665]
15 feet above sea level, as measured at Well J-17, and the flow at
16 Comal Springs as determined by Section 1.26(c) of this article is
17 greater than 350 cfs.

18 SECTION 5. Article 1, Chapter 626, Acts of the 73rd
19 Legislature, Regular Session, 1993, is amended by amending Section
20 1.26 and adding Section 1.26A to read as follows:

21 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After
22 review of the recommendations received, as prescribed by Section
23 1.26A of this article, the [The] authority shall prepare and
24 coordinate implementation of a [plan for] critical period
25 management plan in a manner consistent with Section 1.14(a) of this
26 article [on or before September 1, 1995]. The mechanisms must:

27 (1) distinguish between discretionary use and

1 nondiscretionary use;

2 (2) require reductions of all discretionary use to the
3 maximum extent feasible;

4 (3) require utility pricing, to the maximum extent
5 feasible, to limit discretionary use by the customers of water
6 utilities; and

7 (4) require reduction of nondiscretionary use by
8 permitted or contractual users, to the extent further reductions
9 are necessary, in the reverse order of the following water use
10 preferences:

11 (A) municipal, domestic, and livestock;

12 (B) industrial and crop irrigation;

13 (C) residential landscape irrigation;

14 (D) recreational and pleasure; and

15 (E) other uses that are authorized by law.

16 (b) In this section, "MSL" means the elevation above mean
17 sea level, measured in feet, of the surface of the water in a well,
18 and "CFS" means cubic feet per second. Not later than January 1,
19 2008, the authority shall, by rule, adopt and enforce a critical
20 period management plan with withdrawal reduction percentages in the
21 amounts indicated in Tables 1 and 2 whether according to the index
22 well levels or Comal Springs flow as may be applicable, for a total
23 in critical period Stage IV of 40 percent of the permitted
24 withdrawals under Table 1 and 30 percent under Table 2:

25 TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
26 FOR THE SAN ANTONIO POOL

<u>INDEX WELL J-17</u>	<u>COMAL SPRINGS</u>	<u>CRITICAL</u>	<u>WITHDRAWAL REDUCTION</u>
<u>LEVEL MSL</u>	<u>FLOW CFS</u>	<u>PERIOD STAGE</u>	<u>PERCENTAGE</u>
<u><665</u>	<u>N/A</u>	<u>I</u>	<u>10%</u>
<u><650</u>	<u>N/A</u>	<u>II</u>	<u>10%</u>
<u><640</u>	<u><150</u>	<u>III</u>	<u>10%</u>
<u><630</u>	<u><100</u>	<u>IV</u>	<u>10%</u>

TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE UVALDE POOL

<u>INDEX WELL J-27 MSL FOR</u>	<u>CRITICAL PERIOD</u>	<u>WITHDRAWAL REDUCTION</u>
<u>UVALDE POOL</u>	<u>STAGE</u>	<u>PERCENTAGE</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>II</u>	<u>N/A</u>
<u><845</u>	<u>III</u>	<u>15%</u>
<u><842</u>	<u>IV</u>	<u>15%</u>

(c) The authority shall continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. The authority shall track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Beginning January 1, 2008, the authority shall reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period Stage IV. After January 1, 2012, the authority shall reduce the volume of permitted withdrawals to 320,000 acre-feet, under critical period Stage IV.

1 (e) After January 1, 2020, the authority, after review and
2 consideration of recommendations received by the authority under
3 Section 1.26A of this article, shall adjust the volume of permitted
4 withdrawals to an appropriate annualized rate under critical period
5 Stage IV that is consistent with maintaining the protections
6 contained in Section 1.14(a) of this article.

7 (f) From time to time, the authority by rule may amend the
8 withdrawal reduction criteria of the authority's critical period
9 management plan as set forth in Subsections (b), (c), and (e) of
10 this section, after review and consideration of the recommendations
11 from the Environmental Flows Commission, or the Texas Water
12 Development Board if the Environmental Flows Commission is not
13 established, the Edwards Aquifer area expert science team, and the
14 Edwards Aquifer Area Stakeholders Committee, as prescribed by
15 Section 1.26A of this article. The amended plan must be consistent
16 with Section 1.14(a) of this article.

17 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND
18 STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental
19 Flows Commission, as established under Subchapter B, Chapter 11,
20 Water Code, or the Texas Water Development Board if the
21 Environmental Flows Commission is not established, shall appoint a
22 15-member Edwards Aquifer Area Stakeholders Committee not later
23 than January 1, 2008. The composition of the committee will be as
24 follows:

25 (1) five holders of municipal permits issued by the
26 authority;

27 (2) two holders of irrigation permits issued by the

1 authority;

2 (3) three holders of industrial permits issued by the
3 authority;

4 (4) two downstream water rights holders in the
5 Guadalupe River basin;

6 (5) two downstream water rights holders in the Nueces
7 River basin; and

8 (6) one representative of a public interest group
9 related to instream flows in the Guadalupe River basin and bay and
10 estuary inflows from the Guadalupe River.

11 (b) The Edwards Aquifer Area Stakeholders Committee shall
12 appoint a seven-member Edwards Aquifer area expert science team not
13 later than April 30, 2008. The expert science team must be composed
14 of technical experts with special expertise regarding the Edwards
15 Aquifer system, springflows, or the development of withdrawal
16 limitations. Chapter 2110, Government Code, does not apply to the
17 size, composition, or duration of the expert science team. A member
18 of the Texas Environmental Flows Science Advisory Committee, as
19 established under Subchapter B, Chapter 11, Water Code, or a
20 designee of the Texas Water Development Board if the Texas
21 Environmental Flows Science Advisory Committee is not established,
22 shall serve as liaison to the area expert science team.

23 (c) The Edwards Aquifer area expert science team shall
24 develop an analysis of spring discharge rates and aquifer levels as
25 a function of withdrawal levels. Based on this analysis and the
26 required elements to be considered by the authority in Section 1.14
27 of this article, the expert science team shall, through a

1 collaborative process designed to achieve consensus, create
2 recommendations for withdrawal reduction levels and stages for
3 critical period management including, if appropriate, establishing
4 separate and different withdrawal reduction levels and stages for
5 critical period management rules for different pools of the aquifer
6 and submit them to the Edwards Aquifer Area Stakeholders Committee,
7 the Environmental Flows Commission or the Texas Water Development
8 Board if the Environmental Flows Commission is not established, and
9 the authority. The initial recommendations must be completed and
10 submitted not later than September 30, 2008.

11 (d) In developing its recommendations, the Edwards Aquifer
12 area expert science team must consider all reasonably available
13 science, including any Edwards Aquifer-specific studies, and the
14 recommendations must be based solely on the best science available.
15 The Edwards Aquifer Area Stakeholders Committee may not change the
16 recommendations of the expert science team regarding the withdrawal
17 limitations appropriate to achieve the purposes of Section 1.14 of
18 this article.

19 (e) The Edwards Aquifer Area Stakeholders Committee shall
20 review the withdrawal limitation and critical period management
21 recommendations submitted by the Edwards Aquifer area expert
22 science team and shall consider them in conjunction with other
23 factors, including the present and future needs for water for other
24 uses related to water supply planning in the Edwards Aquifer area
25 and the required elements to be considered by the authority in
26 Section 1.14 of this article. The stakeholders committee shall
27 develop recommendations regarding a critical period management

1 plan and submit its recommendations to the authority and to the
2 Environmental Flows Commission or the Texas Water Development Board
3 if the Environmental Flows Commission is not established. In
4 developing its recommendations, the stakeholders committee shall
5 operate on a consensus basis to the maximum extent possible. The
6 initial recommendations must be completed and submitted not later
7 than October 31, 2008.

8 (f) The Environmental Flows Commission or the Texas Water
9 Development Board if the Environmental Flows Commission is not
10 established shall submit to the authority its comments on and
11 recommendations regarding the Edwards Aquifer area expert science
12 team's recommended withdrawal reduction levels and stages for
13 critical period management needed to maintain target spring
14 discharge and aquifer levels. The withdrawal reduction
15 recommendations shall be based on a combination of spring discharge
16 rates of the San Marcos and Comal Springs and levels at the J-17 and
17 J-27 wells.

18 (g) The Edwards Aquifer area expert science team, the
19 Edwards Aquifer Area Stakeholders Committee, and the Environmental
20 Flows Commission or the Texas Water Development Board if the
21 Environmental Flows Commission is not established shall submit
22 recommendations to the authority for use in developing its rules
23 relative to establishing the critical period management plan.

24 (h) Where reasonably practicable, meetings of the Edwards
25 Aquifer area expert science team and Edwards Aquifer Area
26 Stakeholders Committee must be open to the public.

27 (i) In recognition of the importance of critical period

1 management to adapt to changed conditions or information, after
2 submitting to the authority its recommendations regarding
3 withdrawal limitations and strategies to meet the springflow needs,
4 the Edwards Aquifer Area Stakeholders Committee, with the
5 assistance of the Edwards Aquifer area expert science team, shall
6 prepare and submit a work plan to the Environmental Flows
7 Commission or the Texas Water Development Board if the
8 Environmental Flows Commission is not established. The work plan
9 must:

10 (1) establish a periodic review of the critical period
11 management plan, to occur at least once every five years;

12 (2) prescribe specific monitoring, studies, and
13 activities; and

14 (3) establish a schedule for continuing the validation
15 or refinement of the critical period management plan adopted by the
16 authority, and the strategies to achieve the plan.

17 (j) To assist the Environmental Flows Commission or the
18 Texas Water Development Board if the Environmental Flows Commission
19 is not established in assessing the extent to which the
20 recommendations of the Edwards Aquifer area expert science team are
21 considered and implemented, the authority shall provide written
22 reports to the Environmental Flows Commission or the Texas Water
23 Development Board if the Environmental Flows Commission is not
24 established, at intervals determined by the Environmental Flows
25 Commission or the Texas Water Development Board if the
26 Environmental Flows Commission is not established, that describe:

27 (1) the actions taken in response to each

1 recommendation; and

2 (2) for each recommendation not implemented, the
3 reason it was not implemented.

4 SECTION 6. Sections 1.29(b) and (i), Chapter 626, Acts of
5 the 73rd Legislature, Regular Session, 1993, are amended to read as
6 follows:

7 (b) The authority shall assess equitable aquifer management
8 fees based on aquifer use under the water management plan to finance
9 its administrative expenses and programs authorized under this
10 article. Each water district governed by Chapter 36 [52], Water
11 Code, that is within the authority's boundaries may contract with
12 the authority to pay expenses of the authority through taxes in lieu
13 of user fees to be paid by water users in the district. The contract
14 must provide that the district will pay an amount equal to the
15 amount that the water users in the district would have paid through
16 user fees. The authority may not collect a total amount of fees and
17 taxes that is more than is reasonably necessary for the
18 administration of the authority.

19 (i) The authority shall provide money as necessary, but not
20 to exceed \$75,000, annually adjusted for changes in the consumer
21 price index [~~five percent of the money collected under Subsection~~
22 ~~(d) of this section~~], to finance the South Central Texas Water
23 Advisory Committee's administrative expenses and programs
24 authorized under this article.

25 SECTION 7. Article 1, Chapter 626, Acts of the 73rd
26 Legislature, Regular Session, 1993, is amended by adding Section
27 1.29A to read as follows:

1 Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE. (a) The
2 authority shall appoint a budgetary advisory committee not later
3 than January 1, 2008, to consult and advise the authority on the
4 following prior to its submission to the board:

5 (1) the issuance of bonds;

6 (2) the authority's annual budget; and

7 (3) the authority's annual audit.

8 (b) Each voting member of the board shall appoint one member
9 of the budgetary advisory committee.

10 SECTION 8. Section 1.45(a), Chapter 626, Acts of the 73rd
11 Legislature, Regular Session, 1993, is amended to read as follows:

12 (a) The authority may own, finance, design, construct,
13 [build or] operate, and maintain recharge dams and associated
14 facilities, structures, or works in the contributing or recharge
15 area of the aquifer if the recharge is made to increase the yield of
16 the aquifer and the recharge project does not impair senior water
17 rights or vested riparian rights.

18 SECTION 9. Sections 1.14(d), 1.18, 1.21, and 1.29(a), (c),
19 (d), and (h), Chapter 626, Acts of the 73rd Legislature, Regular
20 Session, 1993, are repealed.

21 SECTION 10. Effective December 31, 2007, Section 1.14(b),
22 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
23 is repealed.

24 SECTION 11. Except as otherwise provided by this Act, this
25 Act takes effect September 1, 2007.

SEQ CHAPTER 161 PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

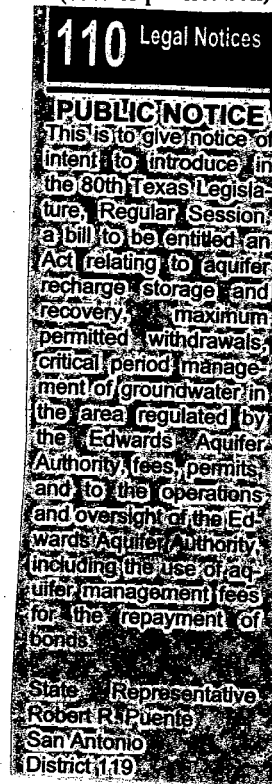
COUNTY OF Guadalupe

Before me, a Notary Public in and for Guadalupe County, this day personally appeared Noice Bell Publisher,
(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in
Seguin Gazette Enterprise on November 17, 2006
(name of newspaper) (date of publication)

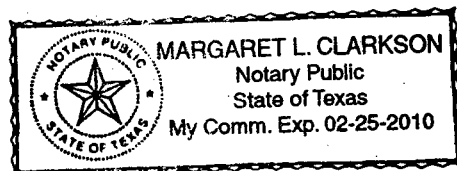
(Affix copy of advertisement)

Noice Bell
(signature of affiant)



Sworn to and subscribed before me this 17 day of November 20 06

Margaret L. Clarkson
(signature of notary)



PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF Atascosa

Before me, a Notary Public in and for Atascosa County, this day personally appeared Reagon Clamon Publisher,
(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in

Leader News on 11-16-2006
(name of newspaper) (date of publication)

Public Notices

PUBLIC NOTICE

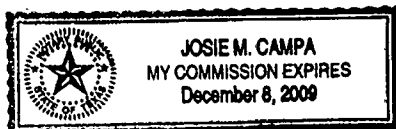
This is to give notice of intent to introduce in the 80th Texas Legislature, Regular Session, a bill to be entitled an Act relating to aquifer recharge storage and recovery, maximum permitted withdrawals, critical period management of groundwater in the area regulated by the Edwards Aquifer Authority, fees, permits, and to the operations and oversight of the Edwards Aquifer Authority, including the use of aquifer management fees for the repayment of bonds.

State Representative Robert R. Puente
San Antonio
District 119

Reagon Clamon
(signature of affiant)

Sworn to and subscribed before me this 16th day of Nov, 2006

Josie Campa
(signature of notary)



PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF COMAL

Before me, a Notary Public in and for COMAL County, this day personally appeared VALERIE SHIELDS, BUSINESS MANAGER,

(name and title of person signing affidavit)

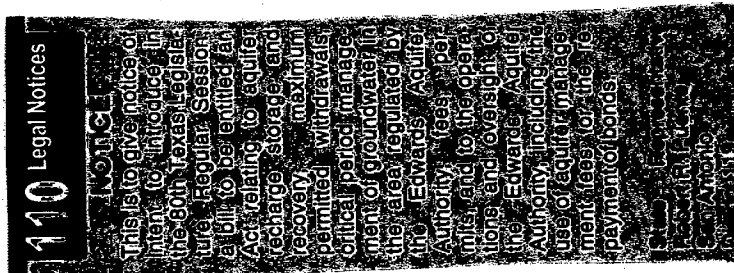
who, being duly sworn, states that the following advertisement was published in

NEW BRAUNFELS HERALD-ZEITUNG

on NOVEMBER 16, 2006

(name of newspaper)

(date of publication)



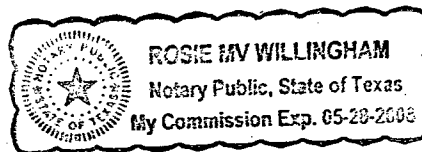
Valerie Shields

(signature of affiant)

Sworn to and subscribed before me this 29TH day of NOVEMBER, 2006.

Rosie M. Willingham

(signature of notary)



PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

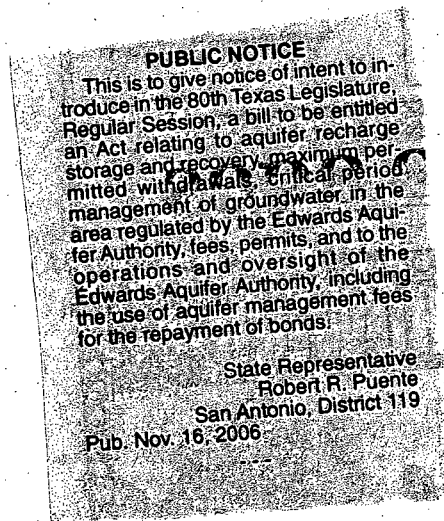
COUNTY OF Medina

Before me, a Notary Public in and for Medina County, this day
personally appeared Tracy Berger, Co-Publisher
(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in

Hondo Anvil Herald on
11/16/23
(name of newspaper)

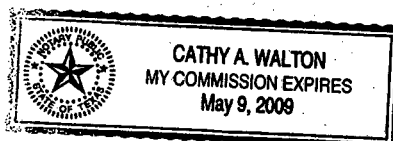
(date of publication)



Tracy Berger
(signature of affiant)

Sworn to and subscribed before me this 28 day of NOV, 2023

Cathy A. Walton
(signature of notary)



PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF Hays

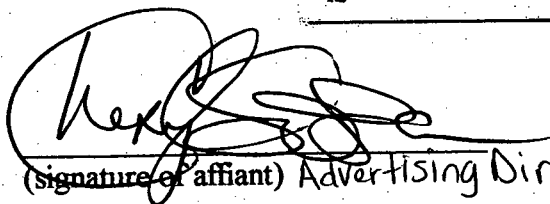
Before me, a Notary Public in and for Hays County, this day personally appeared Cheryl Sosa, Advertising Director
(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in San Marcos Daily Record on November 16, 2006
(name of newspaper) (date of publication)

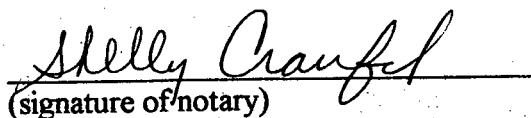
040	Public Notices	040	Public Notices
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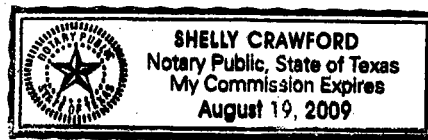
THIS IS to give notice of intent to introduce in the 80th Texas Legislature, Regular Session, a bill to be entitled an Act relating to aquifer recharge storage and recovery, maximum permitted withdrawals, critical period management of groundwater in the area regulated by the Edwards Aquifer Authority, fees, permits, and to the operations and oversight of the Edwards Aquifer Authority, including the use of aquifer management fees for the repayment of bonds.

State Representative Robert R. Puente
San Antonio
District 119


(signature of affiant) Advertising Director

Sworn to and subscribed before me this 29 day of November, 2006


(signature of notary)



PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF BexarBefore me, a Notary Public in and for Bexar County, this day
personally appeared Urai Chokedee / Bookkeeper

(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in

San Antonio Express Newson November 16, 2006

(name of newspaper)

(date of publication)

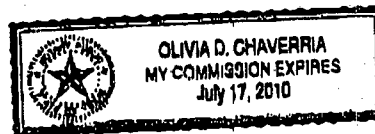
(Affix copy of advertisement)

THIS IS TO GIVE
notice of intent to intro-
duce in the 80th Texas
Legislature, Regular Ses-
sion, a bill to be entitled
an Act relating to aquifer
recharge storage and re-
covery, maximum per-
mitted withdrawals, criti-
cal period management
of groundwater in the
area regulated by the
Edwards Aquifer Authori-
ty, fees, permits, and to
the operations and over-
sight of the Edwards
Aquifer Authority, in-
cluding the use of aquifer
management fees for the
repayment of bonds.
State Representative
Robert A. Puente
San Antonio
District 119

Urai Chokedee
(signature of affiant)

Sworn to and subscribed before me this 16th day of November, 20 06.

Olivia D. Chaverria
(signature of notary)



22

PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF UVALDE

Before me, a Notary Public in and for Uvalde County, this day
 personally appeared Craig Garnett,

(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in

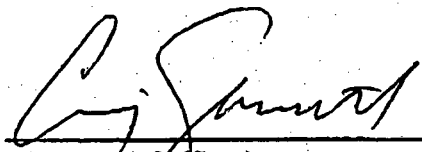
The Uvalde Leader-Newson November 16, 2006

(name of newspaper)

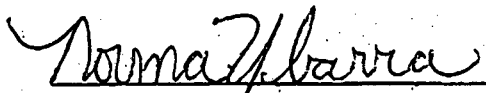
(date of publication)

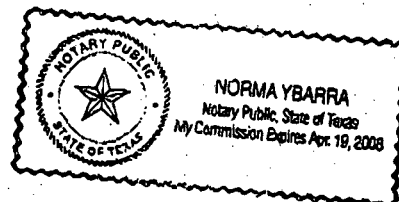
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State Representative
 Robert R. Puente
 San Antonio
 District 119


 (signature of affiant)

Sworn to and subscribed before me this 7th day of December, 2006.


 (signature of notary)



Affidavit of Publication

THE STATE OF TEXAS
COUNTY OF CALDWELL

On this the 10th day of January 2007, personally appeared Dana Garrett, who states that he is Publisher of the Lockhart Post-Register, a newspaper of general circulation, published at Lockhart, in Caldwell County, State of Texas, and upon being duly sworn by me on oath states that the advertisement or legal notice, appearing herewith, is a true and correct copy of same as published in said newspaper on the following dates:

November 16, 2006

Notice of Intent to introduce in the 80th Texas Legislature, an Act relating to aquifer recharge storage and recovery

November 16, 2006

1. PUBLIC NOTICES

PUBLIC NOTICES

This is to give notice of intent to introduce in the 80th Texas Legislature, Regular Session, a bill to be entitled an Act relating to aquifer recharge storage and recovery, maximum permitted withdrawals, critical period management of groundwater in the area regulated by the Edwards Aquifer Authority, fees, permits, and to the operations and oversight of the Edwards Aquifer Authority, including the use of aquifer management fees for the repayment of bonds.

State Representative Robert R.
Puentes
San Antonio
District 113



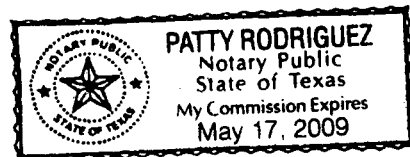
Dana Garrett, Publisher

Sworn and subscribed to before me this the 10th day of January, 2007



Notary Patty Rodriguez

My commission expires 5-17-2009



HOUSE COMMITTEE REPORT

07 APR 24 AM 2:33
HOUSE OF REPRESENTATIVES

1st Printing

By: Puente

H.B. No. 1292

Substitute the following for H.B. No. 1292:

By: Puente

C.S.H.B. No. 1292

A BILL TO BE ENTITLED

AN ACT

relating to the management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, ~~[contract with a person who uses water from the aquifer for the authority or that person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain recharge [water supply] facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. ~~[Management fees or special fees may not be used for purchasing or operating these facilities.]~~ For the purpose of this subsection, "recharge [water supply] facility" means ~~[includes]~~ a dam, reservoir, ~~[treatment facility, transmission facility,]~~ or other form of recharge project and associated facilities, structures, or works.

SECTION 2. Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.111 to read as follows:

Sec. 1.111. RECOVERY IMPLEMENTATION PROGRAM FOR LISTED THREATENED AND ENDANGERED SPECIES. (a) The authority, the

1 commission, the Parks and Wildlife Department, and the Texas Water
2 Development Board shall cooperate in the development of a recovery
3 implementation program for the species that are:

4 (1) listed as threatened or endangered species under
5 federal law; and

6 (2) associated with the aquifer.

7 (b) The recovery implementation program must be developed
8 through a cooperative agreement with the United States secretary of
9 the interior, through the United States Fish and Wildlife Service,
10 under Section 6(c), Endangered Species Act of 1973 (16 U.S.C.
11 Section 1535). The authority and the state agencies shall use all
12 good faith efforts to approve and execute the cooperative agreement
13 not later than January 1, 2012, so that the agreement may take
14 effect not later than December 31, 2012. The cooperative agreement
15 must include agreements by the parties to pursue grant funding to
16 the extent available from all available state, federal, and other
17 sources for eligible programs under the cooperative agreement. In
18 developing the cooperative agreement, the authority, the
19 commission, the Parks and Wildlife Department, and the Texas Water
20 Development Board shall solicit advice from the United States Fish
21 and Wildlife Service and, to the extent practicable, all interested
22 stakeholders, including the San Antonio Water System, other holders
23 of initial regular permits issued by the authority, the South
24 Central Texas Water Advisory Committee, the Guadalupe-Blanco River
25 Authority, other holders of surface water rights in the Guadalupe
26 River Basin, recreational interests in the Guadalupe River Basin,
27 the Guadalupe Basin Coalition, the Texas Farm Bureau, and

1 environmental interests.

2 (c) Not later than October 31 of each even-numbered year,
3 the authority shall file with the governor and each house of the
4 legislature a written report on the progress of the recovery
5 implementation program and any actions taken as a result of the
6 program.

7 (d) On completion of the recovery implementation program,
8 the results of the program shall provide the basis for reevaluation
9 and adjustment, if necessary, of the amount of permitted
10 withdrawals authorized under Section 1.14(c) of this article and
11 the withdrawal reduction percentages specified by Section 1.26(b)
12 of this article.

13 SECTION 3. Sections 1.14(c), (e), (f), and (h), Chapter
14 626, Acts of the 73rd Legislature, Regular Session, 1993, are
15 amended to read as follows:

16 (c) Except as provided by Subsections ~~[(d), (f)]~~ (f) ~~[(f), (h)]~~ and (h)
17 of this section ~~[and Section 1.26 of this article]~~, for the period
18 beginning January 1, 2008, the amount of permitted withdrawals from
19 the aquifer may not exceed the sum of the amounts of groundwater
20 authorized to be withdrawn under:

21 (1) all initial regular permits identified in the
22 Order Implementing a Final Phase-2 Proportional Adjustment and
23 Amending Certain Initial Regular Permits issued by the board on
24 November 8, 2005;

25 (2) a final order issued by the board granting an
26 application for an initial regular permit that was timely filed and
27 was pending with the authority on November 8, 2005; and

1 (3) a final judgment of a court in:

2 (A) an administrative appeal from a final
3 decision of the board on an application for an initial regular
4 permit; and

5 (B) any other type of cause of action that
6 requires the authority to issue a permit ~~[400,000 acre-feet of~~
7 ~~water for each calendar year]~~.

8 (e) The authority may not allow withdrawals from the aquifer
9 through wells drilled after June 1, 1993~~[, except additional water~~
10 ~~as provided by Subsection (d) and then on an interruptible basis]~~.

11 (f) If the level of the aquifer is equal to or greater than
12 660 ~~[650]~~ feet above mean sea level as measured at Well J-17, the
13 authority may authorize withdrawal from the San Antonio pool, on an
14 uninteruptible basis, of permitted amounts. If the level of the
15 aquifer is equal to or greater than 845 feet at Well J-27, the
16 authority may authorize withdrawal from the Uvalde pool, on an
17 uninteruptible basis, of permitted amounts. If the springflow of
18 the San Marcos Springs is equal to or greater than 120 cubic feet
19 per second at the San Marcos Springs gauging station, the authority
20 may authorize withdrawal from the San Marcos pool, on an
21 uninteruptible basis, of permitted amounts. In accordance with
22 Section 1.26 of this article, the ~~[The]~~ authority shall limit the
23 additional withdrawals to ensure that springflows are not affected
24 during critical drought conditions.

25 (h) To accomplish the purposes of this article, ~~[by June 1,~~
26 ~~1994,~~] the authority, through a program, shall implement and
27 enforce water management practices, procedures, and methods to

1 ensure that, not later than December 31, 2012, the continuous
2 minimum springflows of the Comal Springs and the San Marcos Springs
3 are maintained to protect endangered and threatened species to the
4 extent required by federal law. The authority from time to time as
5 appropriate may revise the practices, procedures, and methods. To
6 meet this requirement, the authority shall require:

7 (1) phased reductions in the amount of water that may
8 be used or withdrawn by existing users or categories of other users
9 in accordance with Section 1.26 of this article; or

10 (2) implementation of alternative management
11 practices, procedures, and methods.

12 SECTION 4. Section 1.15(c), Chapter 626, Acts of the 73rd
13 Legislature, Regular Session, 1993, is amended to read as follows:

14 (c) The authority may issue regular permits, term permits,
15 and emergency permits. Except as provided by Sections 1.14(f) and
16 (h) and 1.26 of this article, initial regular permits may not be
17 issued on an interruptible basis, and the total withdrawals
18 authorized by all initial regular permits issued by the authority
19 may not exceed the limitations provided by Section 1.14 of this
20 article.

21 SECTION 5. Section 1.19, Chapter 626, Acts of the 73rd
22 Legislature, Regular Session, 1993, is amended by amending
23 Subsection (b) and adding Subsection (d) to read as follows:

24 (b) Withdrawal of water under a term permit must be
25 consistent with the authority's critical period management plan
26 established under Section 1.26 of this article. A holder of a term
27 permit may not withdraw water from the San Antonio pool of the

1 aquifer unless the level of the aquifer is higher than 675 ~~[665]~~
2 feet above sea level, as measured at Well J-17, and the flow at
3 Comal Springs as determined by Section 1.26(c) of this article is
4 greater than 350 cubic feet per second.

5 (d) A holder of a term permit may not withdraw water from the
6 San Marcos pool of the aquifer unless the springflow of the San
7 Marcos Springs is greater than 200 cubic feet per second, as
8 measured at the San Marcos Springs gauging station.

9 SECTION 6. Sections 1.21 and 1.26, Chapter 626, Acts of the
10 73rd Legislature, Regular Session, 1993, are amended to read as
11 follows:

12 Sec. 1.21. PERMIT RETIREMENT. (a) If required in order to
13 implement Section 1.14(h) of this article, the [The] authority
14 shall prepare and, by rule, implement a plan to retire [for
15 ~~reducing, by January 1, 2008,~~ the amount of groundwater [maximum
16 ~~annual volume of water]~~ authorized under Section 1.14(c) of this
17 article to be withdrawn from the aquifer under initial regular
18 permits to the required reduction level [400,000 acre-feet a year
19 ~~or the adjusted amount determined under Subsection (d) of Section~~
20 ~~1.14 of this article].~~

21 (b) The plan must be enforceable and must include ~~[water~~
22 ~~conservation and reuse measures,~~ measures to retire water rights
23 in order[, and other water management measures designed] to achieve
24 the required reduction level ~~[levels or appropriate management of~~
25 ~~the resource].~~

26 (c) The authority may implement the retirement plan through
27 voluntary acquisitions. If voluntary methods are unsuccessful in

1 attaining the required reduction level, the authority shall reduce
2 the amount of water authorized to be withdrawn under each initial
3 regular permit [~~If, on or after January 1, 2008, the overall volume~~
4 ~~of water authorized to be withdrawn from the aquifer under regular~~
5 ~~permits is greater than 400,000 acre-feet a year or greater than the~~
6 ~~adjusted amount determined under Subsection (d) of Section 1.14 of~~
7 ~~this article, the maximum authorized withdrawal of each regular~~
8 ~~permit shall be immediately reduced]~~ by an equal percentage as [is]
9 necessary to achieve the required reduction level [~~reduce overall~~
10 ~~maximum demand to 400,000 acre-feet a year or the adjusted amount,~~
11 ~~as appropriate]~~. The amount reduced may be restored, in whole or in
12 part, as other appropriate measures are implemented that maintain
13 overall demand at or below the appropriate amount.

14 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) The
15 authority shall prepare and coordinate implementation of a [~~plan~~
16 ~~for~~] critical period management plan in a manner consistent with
17 Sections 1.14(f) and (h) of this article [~~on or before September 1,~~
18 ~~1995]~~. The mechanisms must:

19 (1) distinguish between discretionary use and
20 nondiscretionary use;

21 (2) require reductions of all discretionary use to the
22 maximum extent feasible;

23 (3) require utility pricing, to the maximum extent
24 feasible, to limit discretionary use by the customers of water
25 utilities; and

26 (4) require reduction of nondiscretionary use by
27 permitted or contractual users, to the extent further reductions

are necessary, in the reverse order of the following water use preferences:

- (A) municipal, domestic, and livestock;
- (B) industrial and crop irrigation;
- (C) residential landscape irrigation;
- (D) recreational and pleasure; and
- (E) other uses that are authorized by law.

(b) In this section, "MSL" means the elevation, measured in feet, of the surface of the water in a well above mean sea level, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1, 2, and 3, whether according to the index well levels or Comal Springs flow as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1, 30 percent under Table 2, and 40 percent under Table 3:

TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE SAN ANTONIO POOL

INDEX WELL	COMAL	SAN MARCOS	CRITICAL	WITHDRAWAL
J-17 LEVEL	SPRINGS FLOW	SPRINGS FLOW	PERIOD STAGE	REDUCTION
MSL	CFS	CFS		PERCENTAGE
<660	N/A	<96	I	15%
<650	N/A	<80	II	5%
<640	<150	N/A	III	10%
<630	<100	N/A	IV	10%

TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE UVALDE POOL

<u>INDEX WELL J-27 LEVEL</u>	<u>CRITICAL PERIOD</u>	<u>WITHDRAWAL REDUCTION</u>
<u>MSL</u>	<u>STAGE</u>	<u>PERCENTAGE</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>II</u>	<u>N/A</u>
<u><845</u>	<u>III</u>	<u>15%</u>
<u><842</u>	<u>IV</u>	<u>15%</u>

TABLE 3 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES

FOR THE SAN MARCOS POOL

<u>SAN MARCOS SPRINGS LEVEL</u>	<u>CRITICAL PERIOD</u>	<u>WITHDRAWAL REDUCTION</u>
<u>MSL</u>	<u>STAGE</u>	<u>PERCENTAGE</u>
<u><120</u>	<u>I</u>	<u>20%</u>
<u><110</u>	<u>II</u>	<u>5%</u>
<u><96</u>	<u>III</u>	<u>5%</u>
<u><80</u>	<u>IV</u>	<u>10%</u>

(c) The authority shall continuously track the average daily discharge rate measured over each period of five consecutive days at the Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. The authority shall track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required. If, after a reduction in withdrawals to the Stage IV reduction level is required, the discharge rate at the Comal Springs or the San Marcos Springs declines by an additional 15 percent, the board, by order, may require further withdrawal

1 reductions. Notwithstanding any other provision of this article,
2 the aggregate permitted withdrawals for the San Antonio pool, the
3 Uvalde pool, and any other pool defined under Section 1.14(g) of
4 this article may not be reduced to less than 340,000 acre-feet for
5 each calendar year.

6 (d) From time to time, the authority, by rule, may amend the
7 withdrawal reduction criteria of the authority's critical period
8 management plan as set forth in Subsection (b) of this section based
9 on consultation with and consideration of any recommendations of
10 the United States Fish and Wildlife Service.

11 SECTION 7. Sections 1.29(a), (b), (d), and (i), Chapter
12 626, Acts of the 73rd Legislature, Regular Session, 1993, are
13 amended to read as follows:

14 (a) Seventy-five percent of the [The] cost of [reducing
15 withdrawals or] permit retirements under Section 1.21 of this
16 article must be borne[+]

17 [(-1) solely by users of the aquifer for reducing
18 withdrawals from the level on the effective date of this article to
19 450,000 acre-feet a year, or the adjusted amount determined under
20 Subsection (d) of Section 1.14 of this article for the period ending
21 December 31, 2007, and

22 [(-2) equally] by aquifer users and 25 percent of the
23 cost must be borne by [downstream] water rights holders whose
24 points of diversion are downstream of the Comal Springs and the San
25 Marcos Springs in the Guadalupe River Basin [for permit retirements
26 from 450,000 acre-feet a year, or the adjusted amount determined
27 under Subsection (d) of Section 1.14 of this article for the period

1 ~~ending December 31, 2007, to 400,000 acre-feet a year, or the~~
2 ~~adjusted amount determined under Subsection (d) of Section 1.14 of~~
3 ~~this article, for the period beginning January 1, 2008].~~

4 (b) The authority shall assess equitable aquifer management
5 fees based on aquifer use under the water management plan to finance
6 its administrative expenses and programs authorized under this
7 article. Each water district governed by Chapter 36 [52], Water
8 Code, that is within the authority's boundaries may contract with
9 the authority to pay expenses of the authority through taxes in lieu
10 of user fees to be paid by water users in the district. The contract
11 must provide that the district will pay an amount equal to the
12 amount that the water users in the district would have paid through
13 user fees. The authority may not collect a total amount of fees and
14 taxes that is more than is reasonably necessary for the
15 administration of the authority.

16 (d) The commission shall assess equitable special fees on
17 all ~~[downstream]~~ water rights holders whose points of diversion are
18 downstream of the Comal Springs and the San Marcos Springs in the
19 Guadalupe River Basin to be used solely to finance the retirement of
20 aquifer rights necessary to meet the goals provided by Section 1.21
21 of this article. Fees assessed under this subsection may not exceed
22 25 percent ~~[one-half]~~ of the total cost of permit retirements under
23 Section 1.21 of this article ~~[from 450,000 acre-feet a year, or the~~
24 ~~adjusted amount determined under Subsection (d) of Section 1.14 of~~
25 ~~this article, for the period ending December 31, 2007, to 400,000~~
26 ~~acre-feet a year for the period beginning January 1, 2008]~~. The
27 authority shall report to the commission the estimated costs of the

1 retirements. The amount of fees assessed under this subsection
2 shall be determined in accordance with rules adopted by the
3 commission for fees under the South Texas watermaster program with
4 adjustments as necessary to ensure that fees are equitable between
5 users, including priority and nonpriority hydroelectric users. A
6 downstream water rights holder shall pay fees assessed under this
7 subsection to the authority. A fee may not be assessed by the
8 commission under this subsection on contractual deliveries of water
9 stored in Canyon Lake that may be diverted downstream of the San
10 Marcos Springs or Canyon Dam. A person or entity making a
11 contractual sale of water stored upstream of Canyon Dam may not
12 establish a systemwide rate that requires purchasers of
13 upstream-stored water to pay the special fee assessed under this
14 subsection.

15 (i) The authority shall provide money or services as
16 necessary, but not to exceed \$75,000 annually [~~five percent of the~~
17 ~~money collected under Subsection (d) of this section~~], to finance
18 the South Central Texas Water Advisory Committee's administrative
19 expenses and programs authorized under this article.

20 SECTION 8. Section 1.45(a), Chapter 626, Acts of the 73rd
21 Legislature, Regular Session, 1993, is amended to read as follows:

22 (a) The authority may own, finance, design, construct,
23 [build or] operate, and maintain recharge dams and associated
24 facilities, structures, or works in the contributing or recharge
25 area of the aquifer if the recharge is made to increase the yield of
26 the aquifer and the recharge project does not impair senior water
27 rights or vested riparian rights.

C.S.H.B. No. 1292

1 SECTION 9. Sections 1.14(b) and (d) and 1.18, Chapter 626,
2 Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

3 SECTION 10. This Act takes effect September 1, 2007.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

4/11/08
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 1292 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (X) yes () no A fiscal note was requested.
- () yes (X) no A criminal justice policy impact statement was requested.
- () yes (X) no An equalized educational funding impact statement was requested.
- () yes (X) no An actuarial analysis was requested.
- () yes (X) no A water development policy impact statement was requested.
- () yes (X) no A tax equity note was requested.
- () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor

Joint Sponsors:

Co-Sponsors:

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Hamilton, Vice-chair	X			
Gattis, CBO	X			
Creighton	X			
Gallego	X			
Guillen	X			
Hilderbran	X			
Laubenberg	X			
O'Day	X			

Total

9 aye
0 nay
0 present, not voting
0 absent

CHAIR

BILL ANALYSIS

C.S.H.B. 1292
By: Puente
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Edwards Aquifer Authority (authority) was created by the Edwards Aquifer Authority Act (Act) to preserve, protect and manage the Edwards Aquifer (aquifer). The aquifer provides water for municipal, industrial and irrigation use in central and south Texas and springflow in San Marcos and New Braunfels.

The Act passed in 1993. However, legal challenges prevented the authority from operating until June 1996. The Act created a 17 member board of directors that sets policy to manage, conserve, preserve, and protect the aquifer and works to increase recharge and prevent waste or pollution of the aquifer. The board has fifteen elected members from the region and two non-voting appointed members to carry out the duties set out in the Act. The Act also established the South Central Texas Water Advisory Committee made up of representatives from downstream counties to interact with the authority when issues related to downstream water rights are discussed.

The Act charges the authority with limiting annual groundwater withdrawal permits to 450,000 acre feet per annum for the period ending December 31, 2007, and to 400,000 acre-feet per annum for the period beginning January 1, 2008 (the caps). The Act also requires the authority to issue withdrawal permits to applicants that demonstrate, by convincing evidence, they beneficially used groundwater between 1972 and 1993, and provides most applicants with a guaranteed minimum permit. When the groundwater withdrawal permitting process was completed in 2005, the authority determined that the total amount of approved permits mandated by the Act was approximately 549,000 acre-feet. Because the authority has no discretion in the amount of the final permits based on the minimums, and because the authority cannot change the caps until it completes a number of scientific studies and consults with state and federal agencies, it is not possible to comply with both mandates in the Act.

The Act also provides that the authority may interrupt regular permit withdrawals if the level of the aquifer is below 650 feet above mean sea level at the J-17 Well for the San Antonio Pool and, for the Uvalde pool, when the J-27 well drops below 845 feet above mean sea level. These restrictions are designed to protect springflows at Comal and San Marcos springs, and protect downstream surface water rights during low aquifer conditions.

C.S.H.B. 1292 deletes the required permit reductions to 450,000/400,000 acre-feet and establishes the permit cap as the sum of all regular permits issued by the Authority as of 2007. C.S.H.B. 1292 establishes critical period management plan tables with specific withdrawal levels and triggers and allows the authority to own and operate recharge facilities. C.S.H.B. 1292 also requires the authority to participate in a recovery implementation program developed through a cooperative agreement with the United States secretary of the interior, through the United States Fish and Wildlife Service, for species associated with the aquifer that are listed as threatened or endangered species under federal law.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, as follows:

C.S.H.B. 1292 80(R)

1

(f) Authorizes the Edwards Aquifer Authority (authority) to own, finance, design, construct, operate, or maintain recharge facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. Redefines "recharge facility" for the purpose of this subsection. Deletes existing text prohibiting management fees or special fees from being used for purchasing or operating facilities.

SECTION 2. Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.111 as follows:

Sec. 1.111. RECOVERY IMPLEMENTATION PROGRAM FOR LISTED THREATENED AND ENDANGERED SPECIES.

(a) Requires the authority, the Texas Commission on Environmental Quality (TCEQ), the Parks and Wildlife Department (TPWD), and the Texas Water Development Board (TWDB) to cooperate in the development of a recovery implementation program for the species that are: (1) listed as threatened or endangered species under federal law; and (2) associated with the aquifer.

(b) Requires the recovery implementation program to be developed through a cooperative agreement with the United States secretary of the interior, through the United States Fish and Wildlife Service, under Section 6(c), Endangered Species Act of 1973 (16 U.S.C. Section 1535); requires the authority and state agencies to use all good faith efforts to approve and execute the cooperative agreement not later than January 1, 2012, so that the agreement may take effect not later than December 31, 2012; requires the cooperative agreement to include agreements by the parties to pursue grant funding to the extent available from all available state, federal, and other sources for eligible programs under the cooperative agreement; requires the authority, the TCEQ, TPWD, and the TWDB, in developing the cooperative agreement, to solicit advice from the United States Fish and Wildlife Service and, to the extent practicable, all interested stakeholders, including certain enumerated water right holders, organizations, or interest groups.

(c) Requires the authority to file with the governor and each house of the legislature a written report on the progress of the recovery implementation program and any actions taken as a result of the program, no later than October 31 of each even-numbered year.

(d) Requires that, on completion of the recovery implementation program, the results of the program provide the basis for reevaluation and adjustment, if necessary, of the amount of permitted withdrawals authorized under Section 1.14(c) of this article and the withdrawal reduction percentages specified by Section 1.26(b) of this article.

SECTION 3. Amends Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, by amending Subsections (c), (e), (f), and (h), as follows:

(c) Prohibits the amount of permitted withdrawals from the aquifer, except as provided by Subsections (f) and (h) of this section (deletes exceptions for Subsection (d) and Section 1.26 of the article), for the period beginning January 1, 2008, from exceeding the sum of the amounts of groundwater authorized to be withdrawn under:

(1) all initial regular permits identified in the Order Implementing a Final Phase - 2 Proportional Adjustment and Amending Certain Initial Regular Permits issued by the Edwards Aquifer Authority board of directors (the board) on November 8, 2005;

(2) a final order issued by the board granting an application for an initial regular permit that was timely filed and was pending with the authority on November 8, 2005; and

(3) a final judgment of a court in:

(A) an administrative appeal from a final decision of the board on an application for an initial regular permit; and

(B) any other type of cause of action that requires the authority to issue a permit.

Deletes reference to a permit maximum of 400,000 acre-feet of water for each calendar year.

(e) Deletes language authorizing the authority to allow withdrawals from the aquifer through wells drilled after June 1, 1993 that constituted additional water as provided by Subsection (d) on an interruptible basis.

(f) Authorizes the authority, if the level of the aquifer is equal or greater than 660, rather than 650, feet above mean sea level as measured at well J-17, to authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts; provides that the authority may authorize withdrawal from the San Marcos pool, if the springflow of the San Marcos Springs is equal to or greater than 120 cubic feet per second at the San Marcos Springs gauging station, on an uninterruptible basis, of permitted amounts; requires the authority, in accordance with Section 1.26 of this article, to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) Requires the authority, through a program, and to accomplish the purposes of this article, to implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law; deletes existing text regarding a deadline. Authorizes the authority, from time to time as appropriate, to revise practices, procedures, and methods and provides that to meet this requirement, the authority shall require (1) phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users in accordance with Section 1.26 of this article; or (2) implementation of alternative management practices, procedures, and methods.

SECTION 4. Amends Section 1.15(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to prohibit initial regular permits, except as provided in Section 1.14(f) and (h) and Section 1.26 of this article, from being issued on an interruptible basis, and prohibits the total withdrawals authorized by all initial regular permits issued by the authority from exceeding the limitations provided by Section 1.14 of this article.

SECTION 5. Amends Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Subsection (b) and adding Subsection (d) as follows:

(b) Requires the withdrawal of water under a term permit to be consistent with the authority's critical period management plan established under Section 1.26 of this article. Prohibits a holder of a term permit from withdrawing from the San Antonio Pool of the aquifer unless the level of the aquifer is higher than 675, rather than 665, feet above sea level, as measured at Well J-17, and the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second.

(d) Prohibits a holder of a term permit from withdrawing water from the San Marcos pool of the aquifer unless the springflow of the San Marcos Springs is greater than 200 cubic feet per second, as measured at the San Marcos Springs gauging station.

SECTION 6. Section 1.21 and 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

Sec. 1.21. PERMIT RETIREMENT.

- (a) Requires the authority to prepare and by rule implement a plan to retire the amount of groundwater authorized under Section 1.14(c) of this article to be withdrawn from the aquifer under initial regular permits to the required reduction level if required in order to implement Section 1.14(h) of this article. Deletes existing text regarding a deadline and reduction to 400,000 acre-feet a year or the adjusted amount determined under Subsection (d) of Section 1.14 of this article.
- (b) Provides that the plan must be enforceable and must include measures to retire water rights in order to achieve the required reduction level. Deletes existing text regarding the inclusion of water conservation, reuse and other water management measures designed to achieve appropriate management of the resource.
- (c) Authorizes that authority to implement the retirement plan through voluntary acquisitions. If voluntary methods are unsuccessful in attaining the required reduction level, the authority is required to reduce the amount of water authorized to be withdrawn under each initial regular permit by an equal percentage as necessary to achieve the required reduction level. Deletes existing text providing that if, on or after January 1, 2008, the overall volume of water authorized to be withdrawn from the aquifer under regular permits is greater than 400,000 acre-feet a year or greater than the adjusted amount determined under Subsection (d) of Section 1.14 of this article, the maximum authorized withdrawal of each regular permit shall be immediately reduced as necessary to reduce overall maximum demand to 400,000 acre-feet a year or the adjusted amount, as appropriate.

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) Requires the authority to prepare and coordinate implementation of a critical period management plan in a manner consistent with Section 1.14(f) and (h) of this article. Deletes existing text regarding a deadline.

- (b) Defines the terms "MSL" and "CFS" for this section. Requires the authority, not later than January 1, 2008, by rule, to adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in specifically described tables using critical period stages, whether according to the index well levels or Comal Springs flow, as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 (San Antonio Pool), 30 percent under Table 2 (Uvalde Pool), and 40 percent under Table 3 (San Marcos Pool).
- (c) Requires the authority to continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. Requires the authority to track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required. If, after a reduction in withdrawals to the Stage IV reduction level is required, the discharge rate at the Comal Springs or the San Marcos Springs declines by an additional 15 percent, the board, by order, may require further withdrawal reductions. Notwithstanding any other provisions of this article, the aggregate permitted withdrawals for the San Antonio pool, the Uvalde pool, and any other pool defined under Section 1.14(g) of this article may not be reduced to less than 340,000 acre-feet for each calendar year.
- (d) Authorizes the authority, from time to time, to amend, by rule, the withdrawal reduction criteria of the authority's critical period management plan as set forth in

Subsection (b) of this section based on consultation with and consideration of any recommendations of the United States Fish and Wildlife Service.

SECTION 7. Amends Sections 1.29(a), (b), (d), and (i), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(a) Requires that 75 percent of the cost of permit retirements under Section 1.21 of this article be borne by aquifer users and 25 percent of the cost must be borne by water rights holders whose points of diversion are downstream of the Comal Springs and the San Marcos Springs in the Guadalupe River Basin. Deletes existing text relating to the cost of withdrawal reductions or permit retirements being borne solely by users of the aquifer for reductions from the level on the effective date of this article to 450,000 acre-feet a year or the adjusted amount determined under Subsection (d) of Section 1.14 of this article for the period ending December 31, 2007, and equally between aquifer users and downstream water right holders for permit retirements from 450,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article for the period ending December 31, 2007, to 400,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article, for the period beginning January 1, 2008.

(b) Authorizes each water district governed by Chapter 36, rather than 52, Water Code, that is within the authority's boundaries to contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district.

(d) Requires the TCEQ to assess equitable special fees on all water right holders whose points of diversion are downstream of the Comal Springs and the San Marcos Springs, rather than downstream water right holders as referenced in current text; prohibits fees assessed under this subsection from exceeding 25 percent, rather than one-half, of the total cost of permit retirements under Section 1.21 of this article. Deletes current text referencing permit retirements from 450,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article, for the period ending December 31, 2007, to 400,000 acre-feet a year for the period beginning January 1, 2008.

(i) Requires the authority to provide money or services as necessary, but not to exceed \$75,000 annually, rather than five percent of the money collected under Subsection (d) of this section, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION 8. Amends Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes and provide that the authority may undertake recharge projects in the contributing or recharge area of the aquifer.

SECTION 9. Repealer: Section 1.14(b) and (d) and 1.18, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 10. Effective Date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1292, Section 1.11 (f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, states that for the purposes of the subsection, "recharge facility" means a dam, reservoir, or other *form* of recharge project. The introduced version provided that "recharge facility" means a dam, reservoir, or other *method* of recharge project.

C.S.H.B. 1292 amends Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 1.111, as follows:

C.S.H.B. 1292 80(R)

**Sec. 1.111. RECOVERY IMPLEMENTATION PROGRAM FOR LISTED
THREATENED AND ENDANGERED SPECIES.**

(a) Requires the authority, the Texas Commission on Environmental Quality (TCEQ), the Parks and Wildlife Department (TPWD), and the Texas Water Development Board (TWDB) to cooperate in the development of a recovery implementation program for the species that are: (1) listed as threatened or endangered species under federal law; and (2) associated with the aquifer.

(b) Requires the recovery implementation program to be developed through a cooperative agreement with the United States secretary of the interior, through the United States Fish and Wildlife Service, under Section 6(c), Endangered Species Act of 1973 (16 U.S.C. Section 1535); requires the authority and state agencies to use all good faith efforts to approve and execute the cooperative agreement not later than January 1, 2012, so that the agreement may take effect not later than December 31, 2012; requires the cooperative agreement to include agreements by the parties to pursue grant funding to the extent available from all available state, federal, and other sources for eligible programs under the cooperative agreement; requires the authority, the TCEQ, TPWD, and the TWDB, in developing the cooperative agreement, shall solicit advice from the United States Fish and Wildlife Service and, to the extent practicable, all interested stakeholders, including certain enumerated water right holders, organizations, or interest groups.

(c) Requires the authority to file with the governor and each house of the legislature a written report on the progress of the recovery implementation program and any actions taken as a result of the program, no later than October 31 of each even-numbered year.

(d) Requires that, on completion of the recovery implementation program, the results of the program provide the basis for reevaluation and adjustment, if necessary, of the amount of permitted withdrawals authorized under Section 1.14(c) of this article and the withdrawal reduction percentages specified by Section 1.26(b) of this article.

Section 1.111, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act, is not contained in the introduced version.

C.S.H.B. 1292 does not include changes to Section 1.14(a), contained in the introduced version, that provided that authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to recognize the hydro-geologic connection and interaction between surface water and groundwater.

C.S.H.B. 1292 amends Section 1.14 (c), by prohibiting the amount of permitted withdrawals from the aquifer, except as provided by Subsections (f) and (h) of this section (deletes exceptions for Subsection (d) and Section 1.26 of the article), for the period beginning January 1, 2008, from exceeding the sum of the amounts of groundwater authorized to be withdrawn under:

- (1) all initial regular permits identified in the Order Implementing a Final Phase - 2 Proportional Adjustment and Amending Certain Initial Regular Permits issued by Edwards Aquifer Authority board of directors (the board) on November 8, 2005;
- (2) a final order issued by the board granting an application for an initial regular permit that was timely filed and was pending with the authority on November 8, 2005; and
- (3) a final judgment of a court in:

(A) an administrative appeal from a final decision of the board on an application for an initial regular permit; and

(B) any other type of cause of action that requires the authority to issue a permit.

Deletes reference to a permit maximum of 400,000 acre-feet of water for each calendar year.

In the introduced version, Section 1.14(c), prohibited, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer from exceeding the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

C.S.H.B. 1292 amends Section 1.14(f), to authorize the authority, if the level of the aquifer is equal or greater than 660, rather than 650, feet above mean sea level as measured at well J-17, to authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts; provides that the authority may authorize withdrawal from the San Marcos pool, if the springflow of the San Marcos Springs is equal to or greater than 120 cubic feet per second at the San Marcos Springs gauging station, on an uninterruptible basis, of permitted amounts; requires the authority, in accordance with Section 1.26 of this article, to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

The introduced version amended Section 1.14(f) authorizing the authority to allow withdrawals from the San Antonio pool, on an uninterruptible basis, if the level of the aquifer was equal or greater than 665 feet above mean sea level and the introduced version does not contain a San Marcos Pool.

C.S.H.B. 1292 amends Section 1.14(h), by requiring the authority, through a program, and to accomplish the purposes of this article, to implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law; deletes existing text regarding a deadline. Authorizes the authority, from time to time as appropriate, to revise practices, procedures, and methods and provides that to meet this requirement, the authority shall require (1) phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users in accordance with Section 1.26 of this article; or (2) implementation of alternative management practices, procedures, and methods.

The introduced version amended Section 1.14(h) to require the authority to ensure continuous minimum springflows of the Comal Springs and San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law *and to achieve other purposes provided by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article.*

C.S.H.B. 1292 amends Section 1.15(c), prohibiting initial regular permits, except as provided in Section 1.14(f) and (h) and Section 1.26 of this article, from being issued on an interruptible basis, and prohibits the total withdrawals authorized by all initial regular permits issued by the authority from exceeding the limitations provided by Section 1.14 of this article.

The introduced version, in Section 1.15(c), did not reference an exception for Section 1.14(h) and also refers to "regular permits" throughout the subsection, whereas the substitute references "initial regular permits".

C.S.H.B. 1292 amends Section 1.19, by adding a new subsection (d) to prohibit a holder of a term permit from withdrawing water from the San Marcos pool of the aquifer unless the springflow of the San Marcos Springs is greater than 200 cubic feet per second, as measured at the San Marcos Springs gauging station.

The introduced version did not contain new subsection (d), Section 1.19 because there was not a San Marcos Pool in the introduced version.

C.S.H.B. 1292 80(R)

C.S.H.B. 1292 amends Section 1.21, to read as follows:

Sec. 1.21. PERMIT RETIREMENT.

- (a) Requires the authority to prepare and by rule implement a plan to retire the amount of groundwater authorized under Section 1.14(c) of this article to be withdrawn from the aquifer under initial regular permits to the required reduction level if required in order to implement Section 1.14(h) of this article. Deletes existing text regarding a deadline and reduction to 400,000 acre-feet a year or the adjusted amount determined under Subsection (d) of Section 1.14 of this article.
- (b) Provides that the plan must be enforceable and must include measures to retire water rights in order to achieve the required reduction level. Deletes existing text regarding the inclusion of water conservation, reuse and other water management measures designed to achieve appropriate management of the resource.
- (c) Authorizes that authority to implement the retirement plan through voluntary acquisitions. If voluntary methods are unsuccessful in attaining the required reduction level, the authority is required to reduce the amount of water authorized to be withdrawn under each initial regular permit by an equal percentage as necessary to achieve the required reduction level. Deletes existing text providing that if, on or after January 1, 2008, the overall volume of water authorized to be withdrawn from the aquifer under regular permits is greater than 400,000 acre-feet a year or greater than the adjusted amount determined under Subsection (d) of Section 1.14 of this article, the maximum authorized withdrawal of each regular permit shall be immediately reduced as necessary to reduce overall maximum demand to 400,000 acre-feet a year or the adjusted amount, as appropriate.

In the introduced version, Section 1.21 is repealed.

C.S.H.B. 1292 amends Section 1.26, to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) Requires the authority to prepare and coordinate implementation of a critical period management plan in a manner consistent with Section 1.14(f) and (h) of this article. Deletes existing text regarding a deadline.

- (b) Defines the terms "MSL" and "CFS" for this section. Requires the authority, not later than January 1, 2008, by rule, to adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in specifically described tables using critical period stages, whether according to the index well levels or Comal Springs flow, as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 (San Antonio Pool), 30 percent under Table 2 (Uvalde Pool), and 40 percent under Table 3 (San Marcos Pool).
- (c) Requires the authority to continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. Requires the authority to track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required. If, after a reduction in withdrawals to the Stage IV reduction level is required, the discharge rate at the Comal Springs or the San Marcos Springs declines by an additional 15 percent, the board, by order, may require further withdrawal reductions. Notwithstanding any other provisions of this article, the aggregate permitted withdrawals for the San Antonio pool, the Uvalde pool, and any other pool defined under Section 1.14(g) of this article may not be reduced to less than 340,000 acre-feet for each calendar year.

C.S.H.B. 1292 80(R)

8

(d) Authorizes the authority, from time to time, to amend, by rule, the withdrawal reduction criteria of the authority's critical period management plan as set forth in Subsection (b) of this section based on consultation with and consideration of any recommendations of the United States Fish and Wildlife Service.

The introduced version, in Section 1.26(a) required the authority to prepare and coordinate implementation of a critical period management plan after review of the recommendations received, as prescribed by Section 1.26A of this article. C.S.H.B. 1292 does not contain an added Section 1.26A (DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT). Also in Section 1.26(a), the introduced version provided that the critical period management plan be consistent with Section 1.14(a) of this article, whereas the substitute provides that the critical period management plan be consistent with Section 1.14(f) and (h).

In Section 1.26(b), C.S.H.B. 1292 adds a Table 3 entitled CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION REDUCTION STAGES FOR THE SAN MARCOS POOL, and provides specific stages, triggers and withdrawal levels, with a total in critical period Stage IV of 40 percent. C.S.H.B. 1292 also changes the index well levels and withdrawal reduction percentages in Table 1 – CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE SAN ANTONIO POOL. Stage I is less than 660 feet above mean sea level as measured at Well J-17 with a withdrawal reduction percentage of 15%. In addition, Stage II withdrawal reduction percentage is 5%. In the introduced version, Stage I is less than 665 feet above mean sea level as measured at Well J-17 with a withdrawal reduction percentage of 10%. Stage II withdrawal reduction percentage is 10%. C.S.H.B. 1292 also adds San Marcos Springs flow as a trigger for the San Antonio Pool.

The introduced version, in Section 1.26(c), did not contain the language in the substitute authorizing further reductions after Stage IV based on the discharge rates at Comal and San Marcos Springs, and prohibiting reductions to less than 340,000 acre-feet for each calendar year. Rather, the introduced version contained, in Section 1.26(d), language reducing the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet under critical period stage IV beginning January 1, 2008 and a rate of 320,000 acre-feet under critical period stage IV after January 1, 2012. The introduced version contained language, in Section 1.26(e), requiring the authority, after review and consideration of recommendations received by the authority under Section 1.26A, to adjust the volume of permitted withdrawals to an appropriate annualized rate under critical period Stage IV that is consistent with maintaining the protections contained in Section 1.14(a).

Section 1.26(f) of the introduced version also provided that the authority may amend the withdrawal reduction criteria of the authority's critical period management plan as set forth in Subsections (b), (c), and (e), after review and consideration of the recommendations from the Environmental Flows Commission, or the Texas Water Development Board if the Environmental Flows Commission is not established, the Edwards Aquifer area expert science team, and the Edwards Aquifer Area Stakeholders Committee, as prescribed by Section 1.26A and consistent with Section 1.14(a). Because C.S.H.B. 1292 does not contain Section 1.26A or the Environmental Flows Commission review, the substitute does not contain the language in Section 1.26(f).

C.S.H.B. 1292 amends Section 1.29(a) by requiring that 75 percent of the cost of permit retirements under Section 1.21 of this article be borne by aquifer users and 25 percent of the cost must be borne by water rights holders whose points of diversion are downstream of the Comal Springs and the San Marcos Springs in the Guadalupe River Basin. Deletes existing text relating to the cost of withdrawal reductions or permit retirements being borne solely by users of the aquifer for reductions from the level on the effective date of this article to 450,000 acre-feet a year or the adjusted amount determined under Subsection (d) of Section 1.14 of this article for the period ending December 31, 2007, and equally by aquifer users and downstream water right holders for permit retirements from 450,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article for the period ending December 31, 2007, to 400,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article, for the period beginning January 1, 2008.

C.S.H.B. 1292 80(R)

In the introduced version, Section 1.29(a) is repealed.

C.S.H.B. 1292 amends Section 1.29(d) to require the TCEQ to assess equitable special fees on all water right holders whose points of diversion are downstream of the Comal Springs and the San Marcos Springs, rather than downstream water right holders as referenced in current text; prohibits fees assessed under this subsection from exceeding 25 percent, rather than one-half, of the total cost of permit retirements under Section 1.21 of this article. Deletes current text referencing permit retirements from 450,000 acre-feet a year, or the adjusted amount determined under Subsection (d) of Section 1.14 of this article, for the period ending December 31, 2007, to 400,000 acre-feet a year for the period beginning January 1, 2008.

In the introduced version, Section 1.29(d) is repealed.

C.S.H.B. 1292 amends Section 1.29(i) by requiring the authority to provide money or services as necessary, but not to exceed \$75,000 annually, rather than five percent of the money collected under Subsection (d) of this section, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article. In the introduced version, Section 1.29(i) referenced \$75,000 annually *adjusted for changes in the consumer price index*.

The introduced version added Section 1.29A, entitled BUDGETARY ADVISORY COMMITTEE. C.S.H.B. 1292 does not contain added Section 1.29A.

C.S.H.B. 1292 repeals Section 1.14(b) as of the effective date of the Act, whereas, in the introduced version Section 1.14(b) is repealed effective December 31, 2007.

The introduced version repeals Section 1.29(c) and (h), whereas C.S.H.B. 1292 does not.

C.S.H.B. 1292 provides for an effective date of September 1, 2007, whereas the introduced version provides that the effective date is September 1, 2007, except as otherwise provided in this Act.

SUMMARY OF COMMITTEE ACTION

HB 1292

March 21, 2007 2:00 PM or upon final adjourn./recess

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 11, 2007 2:00 PM or upon final adjourn./recess

Considered in public hearing

Committee substitute considered in committee

Reported favorably as substituted

11
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WITNESS LIST

HB 1292

HOUSE COMMITTEE REPORT

Natural Resources Committee

March 21, 2007 - 2:00 PM or upon final adjourn./recess

For: Briseno, Alexander E. (San Antonio Water System)
 Gray, Jim (City of Alamo Heights)
 Potts, Robert (Edwards Aquifer Authority)
Against: Guerrero, Daniel (City of San Marcos Mayor Susan Narvaiz)
 Kramer, Ken (Lone Star Chapter Sierra Club)
 Taggart, Tom (Guadalupe Basin Coalition)
 Votteler, Todd (Guadalupe-Blanco River Authority)
 Wisdom, Christina (Texas Chemical Council)
On: Hilderbran, Vic (City of Uvalde)
 James, Jerry (City of Victoria)
 Keith, Bob (Self)
 Laroe Jr, Dan (Self and Preserve Lake Dunlap Association)
 Mace, Dr. Robert (Texas Water Development Board)

Registering, but not testifying:

For: Hardberger, Phil (City of San Antonio)
 Krier, Joe (Greater San Antonio Chamber of Commerce)
 Miller, Doug (Edwards Aquifer Authority)
 Monsour, Yesenia (San Antonio Hispanic Chamber of Commerce)
 Polanco, Matthew (City of San Antonio)
 Shields, Susie (Greater San Antonio Chamber of Commerce and Joe Krier,
 President/ CEO Greater Chamber)
Against: Hughes, Chris (Bob Helton- International Power/ Coletto Creek Generating
 Station Fannin, TX Goliad County)
 Wills, Fred (Alamo Group of the Sierra Club and Lone Star Chapter of the
 Sierra Club)

12
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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 16, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1292** by Puente (Relating to the management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the authority.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would make changes in requirements for the administration and operation of the Edwards Aquifer Authority (authority), including changing the calculation used for determining withdrawal limits from the Edwards Aquifer. In addition, the bill would change requirements related to the number of acre-feet of groundwater rights to be retired.

The bill would authorize the creation of the Environmental Flows Commission, the Edwards Aquifer Area Stakeholders Committee, and the Texas Environmental Science Advisory Committee, and would establish criteria for membership of each, as well as the duties, responsibilities, and funding of each. If the commission or committees are not formed, their responsibilities would apply to the Texas Water Development Board (TWDB).

The Edwards Aquifer Authority would be required to appoint a budgetary advisory committee no later than January 1, 2008, to consult and advise the authority, prior to its submission to the TWDB, on the issuance of bonds, the authority's annual budget, and the authority's annual audit.

The authority would be authorized to own, finance, design, construct, and maintain recharge dams and associated facilities, structures, or works contributing to the recharge area. Current statute specifies only that the authority may build or operate recharge dams in the recharge area of the aquifer.

Certain sections of the bill, including the repeal of certain statutes, would take effect on dates later than the overall effective date of the bill. Otherwise, provisions of the bill would take effect on September 1, 2007.

The TWDB anticipates an insignificant fiscal impact as a result of implementing provisions of the bill that would apply to the agency.

Local Government Impact

It is assumed that the fiscal impact of requirements for the authority to appoint a budgetary advisory committee would be absorbed using existing resources. It is assumed that the authority would budget accordingly before implementing its authorization to own, finance, design, construct, and maintain recharge dams and associated facilities, structures, or works contributing to the recharge area.

The Edwards Aquifer Authority reports that provisions of the bill would provide a significant total savings to the authority of \$48.5 million per fiscal year for the first five years following implementation. Contributing to that savings would be \$32.2 million from not having to buy down groundwater rights from 549,000 acre-feet to 450,000 acre-feet (99,000 acre-feet x \$5,000 per acre-foot amortized over 30 years at 5 percent) and \$16.3 million from not having to retire groundwater rights from 450,000 acre-feet to 400,000 acre-feet, sharing costs with down-stream users (50,000 acre-

feet x \$5,000 per acre-foot amortized over 30 years at 5 percent).

The authority reports that changing the calculation for the limit on total withdrawals will prevent the authority from having to buy down 99,000 acre-feet of groundwater rights; as a result, the associated expense would be borne entirely by Edwards Aquifer groundwater permit holders. In addition, the proposed elimination of retiring groundwater rights would result in a savings to the authority and to the downstream water users in equal amounts.

Those counties and municipalities that rely on the Edwards Aquifer would experience costs and savings proportionately as identified by the authority. In addition, Bexar County estimates the county would experience an increase in water rates. Assuming a rate increase of 5 percent would result in an increase of \$46,195 to the county; assuming a rate increase of 10 percent would result in an increase of \$92,390 in water/sewer charges. According to Comal County, the county would experience anywhere from no fiscal impact to extremely significant fiscal impact, depending on amounts of water pumped from the aquifer and amounts of rainfall.

Source Agencies: 580 Water Development Board

LBB Staff: JOB, WK, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 21, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1292 by Puente (Relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would make changes in requirements for the administration and operation of the Edwards Aquifer Authority (authority), including changing the calculation used for determining withdrawal limits from the Edwards Aquifer. In addition, the bill would change requirements related to the number of acre-feet of groundwater rights to be retired.

The bill would authorize the creation of the Environmental Flows Commission, the Edwards Aquifer Area Stakeholders Committee, and the Texas Environmental Science Advisory Committee, and would establish criteria for membership of each, as well as the duties, responsibilities, and funding of each. If the commission or committees are not formed, their responsibilities would apply to the Texas Water Development Board (TWDB).

The Edwards Aquifer Authority would be required to appoint a budgetary advisory committee no later than January 1, 2008, to consult and advise the authority, prior to its submission to the TWDB, on the issuance of bonds, the authority's annual budget, and the authority's annual audit.

The authority would be authorized to own, finance, design, construct, and maintain recharge dams and associated facilities, structures, or works contributing to the recharge area. Current statute specifies only that the authority may build or operate recharge dams in the recharge area of the aquifer.

Certain sections of the bill, including the repeal of certain statutes, would take effect on dates later than the overall effective date of the bill. Otherwise, provisions of the bill would take effect on September 1, 2007.

The TWDB anticipates an insignificant fiscal impact as a result of implementing provisions of the bill that would apply to the agency.

Local Government Impact

It is assumed that the fiscal impact of requirements for the authority to appoint a budgetary advisory committee would be absorbed using existing resources. It is assumed that the authority would budget accordingly before implementing its authorization to own, finance, design, construct, and maintain recharge dams and associated facilities, structures, or works contributing to the recharge area.

The Edwards Aquifer Authority reports that provisions of the bill would provide a significant total savings to the authority of \$48.5 million per fiscal year for the first five years following implementation. Contributing to that savings would be \$32.2 million from not having to buy down groundwater rights from 549,000 acre-feet to 450,000 acre-feet (99,000 acre-feet x \$5,000 per acre-foot amortized over 30 years at 5 percent) and \$16.3 million from not having to retire groundwater rights from 450,000 acre-feet to 400,000 acre-feet, sharing costs with down-stream users (50,000 acre-

feet x \$5,000 per acre-foot amortized over 30 years at 5 percent).

The authority reports that changing the calculation for the limit on total withdrawals will prevent the authority from having to buy down 99,000 acre-feet of groundwater rights; as a result, the associated expense would be borne entirely by Edwards Aquifer groundwater permit holders. In addition, the proposed elimination of retiring groundwater rights would result in a savings to the authority and to the downstream water users in equal amounts.

Those counties and municipalities that rely on the Edwards Aquifer would experience costs and savings proportionately as identified by the authority. In addition, Bexar County estimates the county would experience an increase in water rates. Assuming a rate increase of 5 percent would result in an increase of \$46,195 to the county; assuming a rate increase of 10 percent would result in an increase of \$92,390 in water/sewer charges. According to Comal County, the county would experience anywhere from no fiscal impact to extremely significant fiscal impact, depending on amounts of water pumped from the aquifer and amounts of rainfall.

Source Agencies: 580 Water Development Board

LBB Staff: JOB, WK, DB

PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF Atascosa

Before me, a Notary Public in and for Atascosa County, this day personally appeared Reagon Clamon Publisher,
(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in

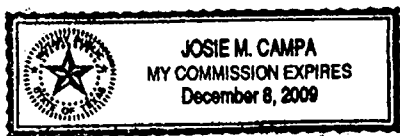
Leader News on 11-16-2006
(name of newspaper) (date of publication)



Reagon Clamon
(signature of affiant)

Sworn to and subscribed before me this 16th day of Nov, 2006

Josie Campa
(signature of notary)

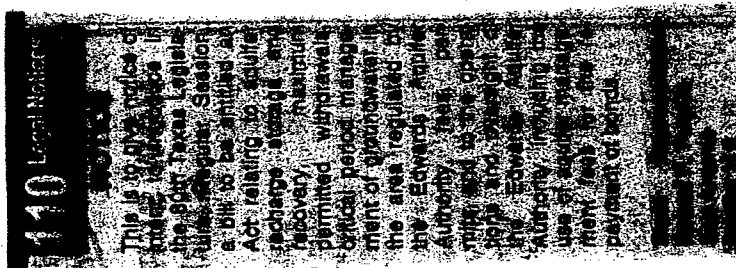


PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF COMAL

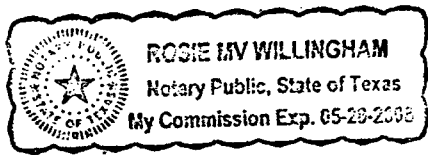
Before me, a Notary Public in and for COMAL County, this day
personally appeared VALERIE SHIELDS, BUSINESS MANAGER,
(name and title of person signing affidavit)
who, being duly sworn, states that the following advertisement was published in
NEW BRAUNFELS HERALD-ZEITUNG on NOVEMBER 16, 2006
(name of newspaper) (date of publication)



Valerie Shields
(signature of affiant)

Sworn to and subscribed before me this 29TH day of NOVEMBER, 2006.

Rosie M. Willingham
(signature of notary)



PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF Medina

Before me, a Notary Public in and for Medina County, this day personally appeared Tracy Berger, Co-Publisher
(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in

Honda Anvil Herald on
11/16/23
(name of newspaper)

(date of publication)

PUBLIC NOTICE
This is to give notice of intent to introduce in the 80th Texas Legislature, Regular Session, a bill to be entitled an Act relating to aquifer recharge storage and recovery, to be permitted with aquifers, and to the management of groundwater in the area regulated by the Edwards Aquifer Authority, fees, permits, and to the operations and oversight of the Edwards Aquifer Authority, including the use of aquifer management fees for the repayment of bonds.

State Representative
Robert R. Puente
San Antonio, District 119
Pub. Nov. 16, 2008

Tracy Berger
(signature of affiant)

Sworn to and subscribed before me this 28 day of Nov, 2008

Cathy A. Walton
(signature of notary)



20

PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF Hays

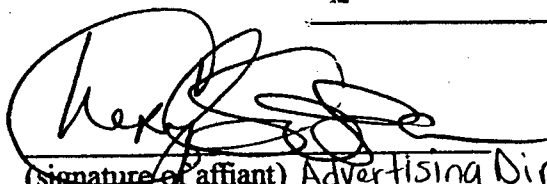
Before me, a Notary Public in and for Hays County, this day personally appeared Cheryl Sosa, Advertising Director
(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in San Marcos Daily Record on November 16, 2006
(name of newspaper) (date of publication)

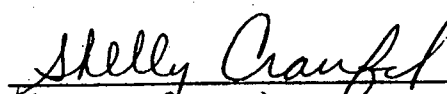


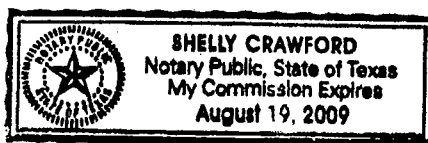
THIS IS to give notice of intent to introduce in the 80th Texas Legislature, Regular Session, a bill to be entitled an Act relating to aquifer recharge storage and recovery, maximum permitted withdrawals, critical period management of groundwater in the area regulated by the Edwards Aquifer Authority, fees, permits, and to the operations and oversight of the Edwards Aquifer Authority, including the use of aquifer management fees for the repayment of bonds.

State Representative Robert R. Puente
San Antonio
District 119


(signature of affiant) Advertising Director

Sworn to and subscribed before me this 29 day of November 2006


(signature of notary)



PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF Bexar

Before me, a Notary Public in and for Bexar County, this day personally appeared Urai Chokedee / Bookkeeper
(name and title of person signing affidavit)

who, being duly sworn, states that the following advertisement was published in San Antonio Express News on November 16, 2006
(name of newspaper) (date of publication)

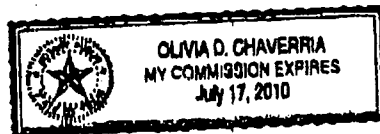
(Affix copy of advertisement)

THIS IS TO GIVE notice of intent to introduce in the 80th Texas Legislature, Regular Session, a bill to be entitled an Act relating to aquifer recharge storage and recovery, maximum permitted withdrawals, critical period management of groundwater in the area regulated by the Edwards Aquifer Authority, fees, permits, and to the operations and oversight of the Edwards Aquifer Authority, including the use of aquifer management fees for the repayment of bonds. State Representative Robert A. Puente San Antonio District 119

Urai Chokedee
(signature of affiant)

Sworn to and subscribed before me this 16th day of November, 2006.

Olivia D. Chaverria
(signature of notary)



22

PUBLISHER'S AFFIDAVIT

STATE OF TEXAS

COUNTY OF UVALDE

Before me, a Notary Public in and for Uvalde County, this day personally appeared Craig Garnett,
(name and title of person signing affidavit)

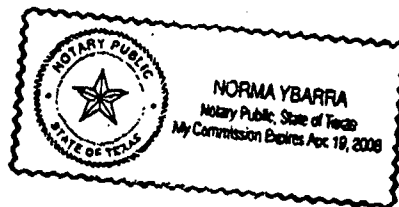
who, being duly sworn, states that the following advertisement was published in The Uvalde Leader-News on November 16, 2006
(name of newspaper) (date of publication)

This is to give notice of intent to introduce in the 80th Texas Legislature, Regular Session, a bill to be entitled an Act relating to aquifer recharge storage and recovery, minimum permitted withdrawal, critical period management of groundwater in the area regulated by the Edwards Aquifer Authority, fees, permits and to the operations and oversight of the Edwards Aquifer Authority, including the use of aquifer management fees for the repayment of bonds. State Representative Robert R. Puente, San Antonio District 118

Craig Garnett
(signature of affiant)

Sworn to and subscribed before me this 7th day of December, 2006.

Norma Ybarra
(signature of notary)



23

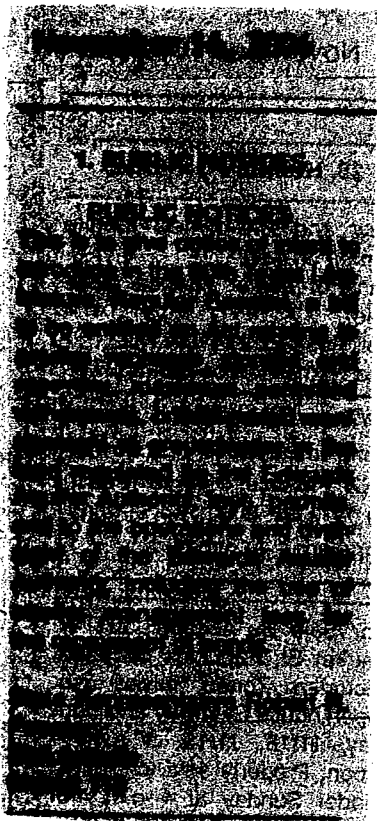
Affidavit of Publication

THE STATE OF TEXAS
COUNTY OF CALDWELL

On this the 10th day of January 2007, personally appeared Dana Garrett, who states that he is Publisher of the Lockhart Post-Register, a newspaper of general circulation, published at Lockhart, in Caldwell County, State of Texas, and upon being duly sworn by me on oath states that the advertisement or legal notice, appearing herewith, is a true and correct copy of same as published in said newspaper on the following dates:

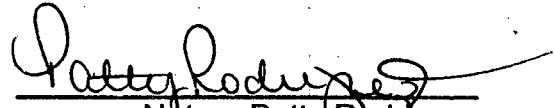
November 16, 2006

Notice of Intent to introduce in the 80th Texas Legislature, an Act relating to aquifer recharge storage and recovery

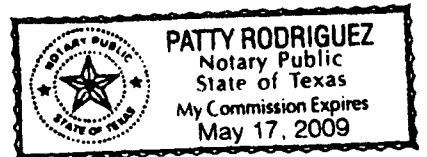



Dana Garrett, Publisher

Sworn and subscribed to before me this the 10th day of January, 2007


Notary Patty Rodriguez

My commission expires 5-17-2009



24


AB 1292

JOINT AUTHOR AUTHORIZATION

As primary author of HB 1292 I hereby authorize the following joint author(s):
(bill or resolution #)

~~JOAQUIN CASTRO~~
printed name of joint author #1

signature of joint author #1


printed name of joint author #2


signature of joint author #2

Leibowitz
printed name of joint author #3

signature of joint author #3

printed name of joint author #4

signature of joint author #4	
------------------------------	--


signature of primary author

5/1/07
date

H.B. No. 1292

By Wm R. Priebe

A BILL TO BE ENTITLED
AN ACT

relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

FEB 09 2007 Filed with the Chief Clerk

FEB 14 2007 Read first time and referred to Committee on Natural Resources

APR 11 2007 Reported favorably ~~(as amended)~~
(as substituted)

APR 24 2007 Sent to Committee on (Calendars)
~~(as amended)~~

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:
MAY 09 2007 Motion to postpone further consideration
of HB No. 1292 until Thursday
May 10, 2007 at 1:00pm
prevailed by a non-record vote.

MAY 10 2007 Motion to postpone further consideration
of HB No. 1292 until Friday
May 18, 2007 at 10am
prevailed by a non-record vote.

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by a (viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

07 APR 24 AM 2:33

HOUSE OF REPRESENTATIVES